IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8404 OF 2005

Shivhari Nivrutti Kolhe ....Applicant.

V/s

State of Maharashtra
Haveli Police Station ...Respondent.

Mr. Vikas Shivarkar for the applicant.

Mr. R.Y. Mirza, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 17th January, 2006

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. This is an application for bail filed by the applicant who was arrested in connection with the offence punishable under section 302, 323, 504, 506 read with section 34 of the Indian Penal Code which was registered with the Haveli Police Station vide C.R. No. 320 of 2004.

3. The prosecution case, in brief, is that the applicant assaulted the wife of his brother with sword and this was witnessed by 4/5 eye witnesses and later on the victim succumbed to her injuries and died.

4. It is submitted by the learned counsel appearing on behalf of the applicant that the applicant had also suffered injuries on his hands and these injuries have not been explained by any prosecution witnesses. It is submitted that there was admittedly an enmity between the complainant and the applicant and, therefore, the applicant has been falsely implicated. He has submitted that the two other accused have been released on bail by this Court and, therefore, the applicant also is entitled to be released on bail.

5. It is not possible to accept the submission made by the learned Counsel appearing on behalf of the applicant. Two accused who are released on bail are the sons of the applicant and there is no evidence against the sons of the applicant. So far as the applicant is concerned, there are 4/5 eye witnesses who have deposed that the applicant has assaulted the deceased. It is submitted that the other two applicants who are released on bail also had inflicted injuries on the deceased and there were eye witnesses.

Be that as it may, so far as the present applicant is concerned, there is substantial evidence and, therefore, this is not a fit case for grant of bail.

Application for bail is, therefore, rejected.

V.M. KANADE, J.